

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

JAMES ARTHUR BIGGINS,)	
)	Case No. 008-004 GMS
Plaintiff,)	JURY TRIAL DEMANDED
v.)	
)	
GOV. RUTH ANN MINNER, ET AL,)	
)	
Defendants.)	

CORRECTIONAL MEDICAL SERVICES'
MOTION FOR ENLARGEMENT OF TIME

Defendant Correctional Medical Services ("CMS"), by and through its undersigned counsel of record, hereby moves for entry of an Order enlarging time for CMS to respond to the Court's Order of February 11, 2008 (D.I. 12). In support of its Motion, CMS states as follows:

1. On or about January 3, 2008, Plaintiff initiated the above-captioned case by filing his complaint alleging, *inter alia*, that CMS has violated his civil rights by deliberate indifference to serious medical needs. (D.I.1) The Complaint sought, in addition to money damages, injunctive relief. *Id.*
2. On January 3, 2008, Plaintiff filed a Motion for a Temporary Restraining Order (D.I. 3) and a Declaration in Support Thereof (D.I. 4). On February 8, 2008, Plaintiff sent a letter to the Court regarding his chronic care medication, which the Court construed as another motion. (D.I. 10).
3. On or about February 11, 2008, this Court issued its order directing defendants Correctional Medical Services, Inc., James Welsh, and David Pierce, Deputy Warden of the Delaware Correctional Center to respond to Plaintiff's motion and letter/motion on or before February 19, 2008. (D.I. 12).

4. The Court's February 11 Order was served on CMS by mail. (D.I. 15) However, it was sent not to CMS's offices but instead to CMS in care of the Delaware Correctional Center, where it was signed for by a "C/O Hoofwager". *Id.* CMS has no employee by that name and thus far has not been able to determine what happened to that piece of mail. The first time that CMS learned of the Court's order, or this suit, was February 15, 2008 when co-defendant James Welch contacted CMS personnel to inquire as to the status of Plaintiff's care.

5. CMS, and the undersigned, have tried diligently to gather information sufficient to respond to the Court's Order, but simply have not been able to do so in the short period of time between Friday, February 15 and today, February 19. Accordingly, CMS respectfully requests an enlargement of time of three days, or until February 22, 2008 to respond to the Court's February 11, 2008 Order.

WHEREFORE, defendant Correctional Medical Services respectfully requests entry of an Order in the form attached hereto granting it an enlargement of three days to respond to the Court's Order of February 11, 2008.

BALICK & BALICK, LLC

/s/ James E. Drnec
James E. Drnec, Esquire (#3789)
711 King Street
Wilmington, Delaware 19801
302.658.4265
Attorneys for Defendant Correctional Medical Services

Date: February 19, 2008

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

JAMES ARTHUR BIGGINS,

Plaintiff,

v.

GOV. RUTH ANN MINNER, ET AL,

Defendants.

)

)

)

)

)

)

)

)

Case No. 008-004 GMS

JURY TRIAL DEMANDED

ORDER

AND NOW, this ____ day of February, 2008, the Court having considered Correctional Medical Services' Motion for Enlargement of Time, and all opposition thereto, IT IS HEREBY ORDERED as follows:

1. The Motion is GRANTED;
2. Correctional Medical Services has until on or before February 22, 2008, to file a response to the Court's Order of February 11, 2008.

The Honorable Gregory M. Sleet, Chief Judge
United States District Court

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

JAMES ARTHUR BIGGINS,)	
)	Case No. 008-004 GMS
Plaintiff,)	JURY TRIAL DEMANDED
v.)	
)	
GOV. RUTH ANN MINNER, ET AL,)	
)	
Defendants.)	

CERTIFICATION OF COUNSEL

The undersigned counsel hereby certifies, pursuant to Rule 7.1.1 of the Local Rules for the District of Delaware, that:

1. The Plaintiff is an inmate incarcerated at the Delaware Correctional Center, Smyrna, Delaware.
2. The Plaintiff is not able to be reached by telephone; therefore, counsel for Correctional Medical Services has been unable to attempt to reach an agreement on the subject of the Motion for Enlargement of Time.
3. The undersigned counsel assumes that the Motion is opposed.

BALICK & BALICK, LLC

/s/ James E. Drnec
James E. Drnec, Esquire (#3789)
711 King Street
Wilmington, Delaware 19801
302.658.4265
Attorneys for Defendant Correctional Medical Services

Date: February 19, 2008

CERTIFICATE OF SERVICE

I, James Drnec, hereby certify that on the 19th day of February 2008, the foregoing Correctional Medical Services' Motion for Enlargement of Time was filed via CM/ECF and served upon the following via the manner indicated:

FIRST CLASS MAIL

James Arthur Biggins
#0319264
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

CM/ECF FILING

Ophelia Michelle Waters, Esquire
Department of Justice
820 N. French Street, 8th Floor
Carvel Office Building
Wilmington, DE 19801

/s/ James E. Drnec
James E. Drnec, Esquire (#3789)